

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTOPHER A. PEAK,

Plaintiff,

Case. No. 18-11143

v.

Honorable Thomas L. Ludington
Magistrate Judge David R. Grand

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

Plaintiff seeks judicial review of the denial of his application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). Plaintiff worked in sales for an auto parts retailer, but stopped working in April 2015 because of back pain, neck pain, and headaches. (Tr. 39, 43, 196). He now alleges disability primarily as a result of these conditions. (Tr. 38-39, 190). After Peak's applications for DIB and SSI were denied at the initial level (Tr. 77-93), he timely requested an administrative hearing, which was held on April 11, 2017, before ALJ Timothy Christensen (Tr. 33-54). Peak, who was represented by Dannelly Smith, testified at the hearing, as did vocational expert Scott Silver. (*Id.*). On August 9, 2017, the ALJ issued a written decision finding that Peak is not disabled under the Social Security Act. (Tr. 20-28). On January 29, 2018, the Appeals Council denied review. (Tr. 1-5).

Peak timely filed for judicial review of the final decision on April 10, 2018. (Doc. #1). The matter was referred to Magistrate Judge David R. Grand. (Doc. #4). On September 16, 2018, Peak filed a motion for summary judgment. (Doc. #19). On November 14, 2018, the

Commissioner filed a motion for summary judgment. (Doc. #21). On May 23, 2019, Judge Grand issued a report, recommending that Plaintiff's motion for summary judgment be denied, that Defendant's motion for summary judgment be granted, and that the decision of the Commissioner be affirmed. (R. 18).

Although the magistrate judge's report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 26, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 19, is **DENIED**.

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 21, is **GRANTED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that Plaintiff's complaint is **DISMISSED with prejudice**.

Dated: June 7, 2019

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge